

TECHNICAL MEMORANDUM

Utah Coal Regulatory Program

January 3, 2007

OK

TO: Internal File

THRU: Wayne Western, Team Lead *W. W.*

FROM: James D. Smith, Environmental Scientist I *JDS* 02/01/07

RE: Phase III Bond Release, PacifiCorp, Des-Bee-Dove Mines, C/015/0017, Task ID # 2714

SUMMARY:

XTO has approval from the BLM's Mineral Management Service and the Oil and Gas section of the Division to bore a coal-bed methane well (Utah Federal 17-7-25-14) in N/2 SW/4 SW/4, Sec. 25, T. 17 S., R. 7 E., SLBM. The pad location, as it has been staked, was selected with input from the USFS and BLM and straddles the lower end of the graded, recontoured, and seeded Des Bee Dove Mines road. The proposed drill pad and adjacent area are federal land. The USFS is the surface management agency, and USFS Special Use Permits provided the Permittee the right-of-entry to build the pumphouse and roads at the mine site.

The Division received this proposed amendment August 30, 2006. The amendment is for Phase III bond release on 2.52 acres that are being reclaimed at the Pumphouse Area (pumphouse and pumphouse access road) and at lower end of the Des Bee Dove Mines access road. This includes all of the areas that are being reclaimed in N/2 SW/4 SW/4, Sec. 25, T. 17 S., R. 7 E. (20 acres). Upon receiving Phase III bond release, the Permittee would submit an amendment to remove this entire 20-acre parcel from the permit area.

Grading, recontouring, and seeding at the Pumphouse Area were completed in the fall of 2000. This reclamation work involved 1.62 acres, all of which is in this Phase III bond release request. The Pumphouse Area reclamation plan is in Appendix IV (Volume 5).

The reclamation plan for what the Permittee calls their Phase 1 area, which includes the Little Dove and the Beehive Mine pads, the substation and water storage area, and the access road down to the Deseret pad, is located in Appendix XIV of the MRP. Phase 1 grading, recontouring, and seeding were completed May 2001. None of the Phase 1 area is included in this bond release request.

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The Phase 2 (Deseret Mine pad, bathhouse pad, tippie yard, and the Des Bee Dove Mines road) reclamation plan is in Appendix XV. The Permittee completed Phase 2 grading, recontouring, and seeding in June 2003. The lower end of the Des Bee Dove Mines access road, 0.9 acres, is the remainder of the 2.52 acres the Permittee is submitting for Phase III bond release.

The Phase 3 Reclamation Plan, covering the sedimentation pond and pond access road, is in Appendix XVI. The Permittee completed Phase 3 grading, recontouring, and seeding in 2006. None of the Phase 3 area is included in this bond release request.

Reclamation of the sedimentation pond in Phase 3 completed the first step (Phase I) of reclamation for the entire permit area, although in April 2006 the Permittee requested Phase I bond release for only the Phase 1, Phase 2, and Pumphouse Area reclamation. Approval of this Phase I bond release was recommended by the Division staff but has not been approved at the federal level.

The Division's AML section finished reclamation work on several areas in N/2 SW/4 SW/4, Sec. 25, T. 17 S., R. 7 E. that were not disturbed by the Permittee and will not be disturbed by XTO.

In order for XTO to construct a drill pad for this well, the Permittee must be released from their reclamation bond and obligation to reclaim the site to pre-mining conditions. The Permittee is applying for Phase III bond release on 2.52 acres, which includes the proposed XTO drill pad and access road plus the remainder of the area that the Permittee is reclaiming in the N/2 SW/4 SW/4 of Sec. 25.

The Permittee feels that - in addition to the possibility that construction of the pad will infringe outside the projected 0.90-acre footprint of the drill pad and road - dust, trash, equipment, and vehicles from XTO's operations may also impact the Permittee's adjacent reclaimed lands. The Permittee is concerned such impacts would result in NOV's, require additional remediation, and delay or prevent timely bond release.

An additional concern for the Permittee involves OHV use of the cattle trail through the area. Even though the USFS currently prohibits motorized vehicles on the trail, tire tracks and other evidence indicate OHVs and trucks are using at least the lower section of the trail. The Permittee feels there is a high probability that, once the XTO drill pad is built, OHV drivers will skirt the drill pad by driving on the adjacent reclaimed areas.

Concurrent with the application for Phase III bond release for the XTO drill site and access road, the Permittee has submitted an application for PMLU change for the entire permit

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area. PMLU would change from grazing and wildlife to grazing, wildlife, recreation, and mineral development.

A bond release inspection was done September 28, 2006. In addition to the Division and Permittee, representatives of the Emery County Lands Council, BLM, and UDWR participated. The USFS expressed that their staff was familiar with the site and opted not to send a representative. In e-mails dated September 22 and October 12, 2006, Dale Harber and Tom Lloyd of the USFS expressed support for Phase III bond release on the 2.52 acres. Mr. Lloyd also suggested a 100 ft buffer around the pad and road to reduce the potential for future conflicts between XTO, the USFS, the Permittee, and the Division. Bond release on the 2.52 acres would make the buffer zone a matter between XTO and the USFS.

TECHNICAL ANALYSIS:

RECLAMATION PLAN

POSTMINING LAND USES

Regulatory Reference: 30 CFR Sec. 784.15, 784.200, 785.16, 817.133; R645-301-412, -301-413, -301-414, -302-270, -302-271, -302-272, -302-273, -302-274, -302-275.

Analysis:

Concurrent with this application for Phase III bond release on 2.52 acres, the Permittee has submitted an application for Post Mining Land Use (PMLU) change for the entire permit area, 120.1 acres. The Division received this proposed amendment August 18, 2009 (Task No. 2606). The proposed amendment changes the PMLU from grazing and wildlife to grazing, wildlife, recreation, and mineral development. The vegetation requirements for the current grazing and wildlife use cannot be met until the end of an Extended Responsibility Period of at least 10 years, as required under R645-357. The change to mineral development (industrial) will allow a less stringent vegetative ground cover standard to be considered for bond release.

In a letter to Energy West dated August 8, 2006, the USFS supports the proposed PMLU change for the N/2 SW/4 SW/4, Sec. 25, T. 17 S., R. 7 E. (20 acres) in which the 2.52-acre Phase III bond release lies; the Division does not know the USFS position on PMLU change for the entire permit area. Upon receiving Phase III bond release, the Permittee states they will submit an amendment to the Division to remove these 20 acres from the permit area.

Post Mining Land Uses are discussed in RECLAMATION PLAN: POSTMINING USES R645-301-412.100 in Volume 2, Part 4. The text in this section of the currently approved MRP

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is out-of-date, discussing PMLU as it was before Appendices IV, XIV, XV, and XVI were updated or added. This proposed amendment removes outdated references to features no longer included in the reclamation plan, lists PMLU as grazing, wildlife habitat, recreation, and mineral development (including oil and gas development), and adds information on the XTO well and road.

Findings:

The Permittee has met the requirements of this Post Mining Land Uses section of the Coal Mining Rules, although the PMLU described in this amendment is subject to the Division's approval of the pending Post Mining Land Use Change amendment.

HYDROLOGIC INFORMATION

Regulatory Reference: 30 CFR Sec. 784.14, 784.29, 817.41, 817.42, 817.43, 817.45, 817.49, 817.56, 817.57; R645-301-512, -301-513, -301-514, -301-515, -301-532, -301-533, -301-542, -301-723, -301-724, -301-725, -301-726, -301-728, -301-729, -301-731, -301-733, -301-742, -301-743, -301-750, -301-751, -301-760, -301-761.

Analysis:

Hydrologic Reclamation Plan

Granting Phase III bond release will not affect the hydrology of the permit or adjacent areas. There are no changes proposed for any of the Hydrology sections of the MRP.

The Division has received a copy of the plan for XTO's pad and road. Talon Resources of Huntington, Utah prepared it for XTO. Sedimentation and erosion control methods to be used include silt fence, riprap, ditches, and culverts. Only minor washes are present in and adjacent to the pad and road site. Hydrologic impacts from the pad and road should be negligible.

Findings:

The Permittee has met the requirements for Reclamation Hydrologic Information.

CUMULATIVE HYDROLOGIC IMPACT ASSESSMENT

Regulatory Reference: 30 CFR Sec. 784.14; R645-301-730.

Analysis:

This action does not require revision or update of the East Mountain CHIA.

Findings:

This action does not require revision or update of the East Mountain CHIA.

RECOMMENDATIONS:

The Division should approve this Phase III Bond Release for the Des Bee Dove Mines, but not until the pending Post Mining Land Use Change amendment has been approved.